

Appl. No. : 10/007,003  
Filed : November 9, 2001

## REMARKS

In the Office Action mailed June 14, 2006, the Examiner rejected Claims 1-12 and 43. By the present amendment, Applicants have (i) amended Claims 1 and 4-10; and (ii) added new Claims 62-70. Claims 1-12, 43 and 62-70 are now pending.

Applicants respectfully request the Examiner to reconsider the present application in view of the amendments set forth and the following arguments.

### **A. Discussion of Rejection of Claims 1-12 and 43 Under Section 112**

The Examiner rejected Claims 1-12 and 43 under 35 USC §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner stated that the Claims 1, 3-10, and 43 use the term “wherein” but that the specification fails to provide actual steps to perform or limit these claims to a particular structure. Examiner also rejected Claims 2 and 11-12 for having the same defects as their base claim, Claim1. Applicants respectfully disagree with the rejection. The term “wherein” is commonly used in claims to further limit specific claim elements. However, in deference to the Examiner, Applicants have eliminated most instances of the use of the term “wherein” and replaced the term with “further comprising”.

### **B. Discussion of Rejections of Claims 1-2, 7-10 and 43 Under Section 102**

The Examiner rejected Claims 1-2, 7-10 and 43 under Section 102(b) as being anticipated by Evans et al. Applicants respectfully disagree with Examiner’s rejection. Evans appears to have a very little if anything to do with the invention claimed. Evans is a broadcast system that distributes data such as a news article to wide variety of recipient computers. Evans is not a distributed storage system and is not applicable to the claims in this case.

### **C. Discussion of Rejections of Claims 3-6 and 9-12 Under Section 103**

The Examiner rejected Claims 3-6 under Section 103(a) as being unpatentable over Evans in view of Beardsley et al. The Beardsley reference relates to managing meta data in the context of storage system. There appears to be absolutely no reasonable basis for combining the Beardsley meta data and storage management system with the Evans news broadcast system. Further, because Claims 3-6 all depend from and include the limitations of base Claim 1, Claims 3-6 are patentable over Evans and Beardsley for at least the reasons set forth above with respect to Examiner’s rejection of Claim 1 under Section 102(b).

Appl. No. : 10/007,003  
Filed : November 9, 2001

**D. Discussion of Rejections of Claims 11-12 Under Section 103**

The Examiner rejected Claims 11-12 under Section 103(a) as being unpatentable over Evans in view of Mason Jr. et al. The Mason reference relates to a RAID controller system utilizing caching systems. There appears to be absolutely no reasonable basis for combining the Mason RAID controller system with the Evans news broadcast system. Further, because Claims 11-12 depend from and include the limitations of base Claim 1, Claims 11-12 are patentable over Evans and Mason for at least the reasons set forth above with respect to Examiner's rejection of Claim 1 under Section 102(b).

**E. Amendments and New Claims**

Applicants have amended claim one to add "an allocator module for distributing the first and second metadata and the file portions across the storage modules in a manner appropriate for the storage system and for each file." This feature combined with the other claimed elements are not shown in the prior art. Newly added claims 62-70 also call for features that are not shown in the prior art. Thus, all the claims remaining in the case are patentable and the Examiner is respectfully requested to pass this case to issuance.

**F. IDS**

Applicants have become aware of additional references which Applicants would like the Examiner to review before acting on this amendment. Applicants will be submitting these references in a Supplemental Information Disclosure Statement.

Appl. No. : 10/007,003  
Filed : November 9, 2001

### CONCLUSION

In view of the foregoing comments, it is respectfully submitted that the present application is fully in condition for allowance, and such action is earnestly solicited. If any questions remain, however, the Examiner is cordially invited to contact the undersigned attorney so that any such matters may be promptly resolved.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 12/14/06

By: *Arthur S. Rose*

Arthur S. Rose  
Registration No. 28,038  
Attorney of Record  
Customer No. 20,995  
(949) 760-0404

2999899/dp  
100906